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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,073	09/19/2003	Alan Leslie Bidwell	A34458 PCT USA-A	7664
21003	7590	01/12/2006		
BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER CULBRETH, ERIC D	
			ART UNIT	PAPER NUMBER
			3616	
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/666,073	Applicant(s) BIDWELL, ALAN LESLIE	
	Examiner Eric Culbreth	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/24/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The examiner notes that a status inquiry was filed 8/4/05. Following is an action on the merits of the application. The examiner notes that the inquiry was not replied to because the Office does not make examiners aware that a status inquiry has been filed.

Priority

2. It is noted that this application appears to claim subject matter disclosed in prior Application No. 09/869,878, filed 9/7/01. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen

months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference

in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Information Disclosure Statement

3. In order to ensure proper consideration, applicant should supply a copy of the Australian reference listed on page 1, lines 9-10 of the specification, as it is not readily available to the examiner.

Drawings

4. The drawings are objected to because of the following informalities. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

a. In Figure 1, reference numeral 10's lead line should touch the vehicle or have an arrow (page 4, line 17).

b. In Figure 1, reference numeral 28's lead line should touch the compensating means or have an arrow.

c. Regarding page 5, lines 1-8 reference numerals 32 and 34 are not in Figure 1, as insinuated by this text.

d. In Figure 4, the lead lines for reference numerals 66 should touch the ends they refer to (page 6, line 8).

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the supermarket trolley (claim 2) and cable, V-belt or chain in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The abstract of the disclosure is objected to because legal phraseology such as "means" should not be used. Correction is required. See MPEP § 608.01(b).
7. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

This refers to the Australian patent cited on page 1, lines 9-10.

8. The disclosure is objected to because of the following informalities:
- a. On page 2, line 7 "stabilize" is misspelled.
 - b. On page 2, line 11 "prevent" should be "present".
 - c. On page 6, line 27 "belt 30 move" is unclear (the grammar is incorrect (i.e. this should be "belt 30 moves" or "belts 30 move"), and it is not clear what is meant here because there are two belts 30 in the drawings (i.e., which belt, both belts)).
 - d. On page 6, line 27, "leg" should apparently be "left".
 - e. On page 7, line 21 "than" should be "that".
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding page 6, lines 12-22 it is not clear why the angles or turning radii recited will be assumed by each wheel (i.e., why will wheel 14 assume a radius of curvature in the turn of 2.12 meters when the left wheel 12 assumes a turn of 1.53 meters?). It is especially unclear how the radii for the front and rear wheels on the same side of the vehicle can be different, since they are linked by a belt 30 received on pins at each wheel (i.e., if the wheel on the front right side turns by a certain amount, and the belt does not slip or change length, it would seem the wheel at the back right side of the vehicle has to turn by that same amount).

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Specifically, when claim 1 refers to the specification ("as hereinbefore defined") this is indefinite because the claims have to particularly point out and distinctly claim the invention without referring to the specification.

13. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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a. When the claims (i.e., claim 1) recite the invention as a "compensating means", no structure or article is being claimed as the invention.

b. Also, in claim 1, the phrase "(as hereinbefore defined)" is indefinite because it fails to particularly point out and distinctly claim what is regarded as the invention (since the phrase is in parentheses, it is not clear if the claim positively includes this limitation or if it is optional).

c. Claim 1 recited the invention as a compensating means. Hence, when the preambles of claims 3-6 and 9-10 recite "compensating system" as ultimately in claim 1, there is no antecedent basis for the system.

d. In claim 5, the recitation that the second rotatable means "may be" a cylindrical drum fails to positively recite structure (if the second rotatable means is not a cylindrical drum, is the claim still met?).

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-6 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Fabiano et al (US Patent 4,950,126).

Fabiano et al discloses a compensating means as broadly and indefinitely recited in the preamble of claim 1 ("for compensating for different wheel turn angles" in the preamble of the claim is a functional statement of intended use, failing to positively define structure absent a recitation of distinguishing structure in the body of the claim). In view of the indefinite recitations of claim 1 of "as hereinbefore defined", Fabiano et al meets the positive limitations of the claim. Fabiano et al further discloses the vehicle 1 having four wheels 7 connected by a drive system shown in Figure 6 (claim 3). The compensating means is adapted to be used with the drive system and includes first rotatable means 34 for rotation about central shaft 29, a second rotatable means 32 for rotation about central shaft 29, the first and second rotatable means being concentric, and a pin 38 serving as connecting means connecting the first and second rotatable means for limited angular relative movement (claim 1). Regarding claim 2, as the preamble of claim 1 recited the invention as a compensating means "for" a vehicle, the type of vehicle (i.e., supermarket trolley) it is to be used with is a functional statement of intended use, failing to positively define distinguishing structural characteristics. The wheels are driven for steering by chain devices (claim 4), and rotatable means 32, 34 are cylindrical drums inasmuch as applicant's disclosed invention (claim 5). As seen in Figures 7-8, central shaft 29 extends upwardly beyond second rotatable means 32 (claim 6).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 7 as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Fabiano et al.

Fabiano et al's connecting pin 38 is attached to second rotatable means 32 by members 40, 50 and extends downwardly through elongate arcuate slot 36 in the first rotatable means 34. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fabiano et al so that the pin extends upwardly from the first rotatable means into an arcuate slot in the second rotatable means, as this would involve an obvious reversal of parts, and the invention would appear to work just as well whether the pin were on the second rotatable means or vice versa.

Allowable Subject Matter


18. Claims 8-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric Culbreth
Primary Examiner
Art Unit 3616

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